

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

NICHOLAS HARRISON; and OUTSERVE-
SLDN, INC.,

Plaintiffs,

v.

PATRICK M. SHANAHAN, in his official
capacity as Acting Secretary of Defense;
MARK T. ESPER, in his official capacity as
Secretary of the Army; and the UNITED
STATES DEPARTMENT OF DEFENSE,

Defendants.

No. 1:18-cv-641-LMB-IDD

RICHARD ROE; VICTOR VOE; and
OUTSERVE-SDLN, INC.,

Plaintiffs,

v.

PATRICK M. SHANAHAN, in his official
capacity as Acting Secretary of Defense;
MATTHEW DONOVAN, in his official
capacity as Acting Secretary of the Air Force;
and the UNITED STATES DEPARTMENT
OF DEFENSE,

Defendants.

No. 1:18-cv-1565-LMB-IDD

DEFENDANTS' TRIAL EXHIBIT LIST

Pursuant to this Court's Notice of October 3, 2018 in *Harrison v. Shanahan*, see Dkt. 63, Defendants, through its undersigned counsel, hereby respectfully submits its list of potential exhibits for the trial in the above captioned matter.

Defendants reserve an objection to the presentation of evidence and testimony in these cases that is outside of the administrative record. The Department of Defense's, Department of the Army's, and Department of the Air Force's administrative processes that resulted in final agency action are supported by administrative records. In making the determination whether those policies are "contrary to constitutional right," 5 U.S.C. § 706(2)(B), the Court "shall review the whole record," *id.* § 706. The Court's review is therefore limited to "the full administrative record that was before the Secretary at the time he made his decision." *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 420 (1971).

Further, as recently emphasized by the D.C. Circuit in a challenge to another military personnel policy, the Court must give great deference to the judgment of military officials. *Doe 2 v. Shanahan*, 755 F. App'x 19, 24–25 (D.C. Cir. 2019) (*per curiam*). Such deference means that neither the Plaintiffs, Plaintiffs' witnesses, nor the Court may undertake an independent evaluation of the evidence. *Rostker v. Goldberg*, 453 U.S. 57, 81 (1981) ("In relying on this testimony . . . the District Court palpably exceeded its authority when it ignored Congress' considered response to this line of reasoning."); *id.* at 82-83 ("The District Court was quite wrong in undertaking an independent evaluation of this evidence."); *Goldman v. Weinberger*, 475 U.S. 501, 508 (1986) ("[W]hether or not expert witnesses may feel that religious exceptions to [the challenged military regulation] are desirable is quite beside the point."); *see also Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 25 (2008) ("We accept these officers' assertions [that a certain practice] is of the utmost importance to the Navy and the Nation."); *Doe 2*, 917 F.3d 694 at 737 (Williams, J., concurring) (noting the court's role in evaluating military policy is so circumscribed that extra-record evidence and discovery is "quite

beside the point” (quoting *Goldman v. Weinberger*, 475 U.S. 503, 509 (1986))). Rather, as the Supreme Court emphasized in *Trump v. Hawaii*, 138 S. Ct. 2392, 2420 (2018), the Court’s review of the Department of Defense, Department of the Army, and Department of the Air Force policies must focus on the stated justifications for the policies.

Moreover, the Administrative Procedure Act “confines judicial review of executive branch decisions to the administrative record of proceedings before the pertinent agency. As such, there can be no genuine issue of material fact in an APA action. . . .” *Shipbuilders Council of Am. v. U.S. Dep’t of Homeland Sec.*, 770 F.Supp.2d 793, 802 (E.D.Va.2011) (citations omitted). With respect to such claims, “the function of the district court is to determine whether or not as a matter of law the evidence in the administrative record permitted the agency to make the decision it did.” *Id.* (internal quotation marks omitted).

Subject to the foregoing objection, Defendants set forth their exhibit list below. Defendant reserves the right to elect not to seek the introduction of any of these exhibits at trial, and to re-arrange the numbering sequence prior to trial. Pursuant to this Court’s Order of September 26, 2018, this list does not include exhibits that Defendant might seek to introduce as impeachment and/or rebuttal evidence. Moreover, Defendant reserves the right to use demonstrative exhibits during the testimony of certain of its witnesses in order to assist the trier-of-fact.

Defendant also reserves the right to use any exhibits listed on Plaintiff’s Exhibit List.

EXHIBITS

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
1	A00364-A00379	2014 Report to Congress	X	X
2	A00380-A00413	2018 Report to Congress	X	X

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
3		Prevention Access Campaign. Risk of Sexual Transmission of HIV from a Person Living with HIV Who Has An Undetectable Viral Load: Messaging Primer and Consensus Statement. Issued July 21, 2016.	X	X
4		Kuhar DT, Henderson DK, Struble KA, Heneine W, Thomas V, Cheever LW et al. Updated U.S. Public Health Service Guidelines for the Management of Occupational Exposures to Human Immunodeficiency Virus and Recommendations for Postexposure Prophylaxis. Infect Control Hosp Epidemiol. 2013; 34(9):875-892.	X	X
5		Crum-Cianflone NF, Moore DJ, Letendre Set al. Low prevalence of neurocognitive impairment in early diagnosed and managed HIV-infected persons. Neurology. 2013;80:371379.	X	X
6		Sacktor N. Changing clinical phenotypes of HIV-associated neurocognitive disorders. J Neurovirol. 2018;24(2):141-145	X	X
7		Price RW. HIV-associated neurocognitive disorders: Epidemiology, clinical manifestations, and diagnosis. UpToDate. Literature review current through May 2018. This topic last updated February 14, 2017	X	X
8		De Souza EM, Buoniconti CS, Valim FC, Moura AS. Risk factors for neurocognitive impairment in HIV-infected patients and comparison of different screening tools. Dementia & Neuropsychologia. 2016; 10(1):42-46.	X	X
9		Antinori A, Arendt G, Becker JT, et al. Updated research nosology for HIV-associated neurocognitive disorders. Neurology. 2007;69(18):1789-1799.	X	X
10		Sacktor N. Changing clinical phenotypes of HIV-associated neurocognitive disorders. J Neurovirol. 2018;24(2): 141-145.	X	X

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
11		Grant I, Franklin DR Jr, Deutsch R, Woods SP, et al. Asymptomatic HIV-associated neurocognitive impairment increases risk for symptomatic decline. Neurology. 2014;82:2055-2062.	X	X
12		U.S. Army Medical Research and Materiel Command. Military Infectious Diseases Research Program (MIDRP). Background and Environment.	X	X
13		U.S. Army Institute of Surgical Research: Joint Trauma System Clinical Practice Guideline: Fresh Whole Blood (FWB) Transfusion. 2012.	X	X
14		Kao, R & McAlister, V, "Care of victims of suicide bombing," October 10, 2018	X	X
15		Carlos del Rio and James W. Curren, Epidemiology and Prevention of Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus Infection in Mandell, Douglas, and Bennett's Principles and Practice of Infectious Diseases (Bennett et al. ed. 2015).	X	X
16		DoD 5400.11-R, "Department of Defense Privacy Program," May 14, 2007	X	X
17		DoD 6025.18-R, "DoD Health Information Privacy Regulation," January 2003	X	X
18		DoDD 6490.02E, "Comprehensive Health Surveillance," February 8, 2012, as amended	X	X
19		DoDI 1304.26, "Qualification Standards for Enlistment, Appointment, and Induction," March 23, 2015, as amended	X	X
20		DoDI 1332.45, "Retention Determinations for Non-Deployable Service Members," July 30, 2018	X	X
21		DoDI 1332.18, "Disability Evaluation System (DES)," August 5, 2014	X	X
22		DoDI 6025.13, "Medical Quality Assurance (MQA) and Clinical Quality Management in the Military Health System (MHS)," February 17, 2011, as amended	X	X

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
23		DoDI 6025.19, "Individual Medical Readiness (IMR)," June 9, 2014	X	X
24		DoDI 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services," April 28, 2010, as amended	X	X
25		DoDI 6485.01, "Human Immunodeficiency Virus (HIV) in Military Service Members," June 7, 2013	X	X
26		DoDI 6490.03, "Deployment Health," August 11, 2006	X	X
27		DoDI 6490.07, "Deployment-Limiting Medical Conditions for Service Members and DoD Civilian Employees," February 5, 2010	X	X
28		DoDI 1332.18, "Disability Evaluation System," August 5, 2014, Incorporating Change 1	X	X
29		DoDI 6025.13, "Medical Quality Assurance (MQA) and Clinical Quality Management in the Military Health System (MHS)," October 29, 2013	X	X
30		AR 40-501, "Standards of Medical Fitness," June 14, 2017	X	X
31		AR 40-68, "Clinical Quality Management," Rapid Action Revision Issue Date: May 22, 2009	X	X
32		AR 135-133, "Ready Reserve Screening, Qualification Records System, and Change of Address Reporting," December 22, 2016	X	X
33		AR 135-175, "Separation of Officers," November 29, 2017	X	X
34		AR 135-178, "Enlisted Administrative Separations," November 7, 2017	X	X
35		AR 140-10, "Assignments, Attachments, Details, and Transfers," August 15, 2005	X	X
36		AR 140-50, "Officer Candidate School, Army Reserve," October 15, 1999	X	X
37		AR 350-51, "United States Army Officer Candidate School," June 11, 2001	X	X

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
38		AR 600-8-24, "Officer Transfers and Discharges," Rapid Action Revision Issue Date: September 13, 2011	X	X
39		AR 600-110, "Identification, Surveillance, and Administration of Personnel Infected with Human Immunodeficiency Virus," April 22, 2014	X	X
40		AR 614-30, "Overseas Service," December 22, 2016	X	X
41		AR 614-100, "Officer Assignment Policies, Details, and Transfers," January 10, 2006	X	X
42		AR 614-200, "Enlisted Assignments and Utilization Management," November 29, 2017	X	X
43		AR 635-40, "Disability Evaluation for Retention, Retirement, or Separation," January 19, 2017	X	X
44		AR 635-200, "Active Duty Enlisted Administrative Separations," December 19, 2016	X	X
45		NGR 351-5, "State Military Academies," Incl Change 1, December 16, 1985	X	X
46		NGR 600-200, "Enlisted Personnel Management," July 31, 2009	X	X
47		NGR 635-101, "Efficiency and Physical Fitness Boards," August 15, 1977	X	X
48		AFI 44-178, "Human Immunodeficiency Virus Program," March 4, 2014; Certified Current June 28, 2016	X	X
49		AFI 48-123, "Medical Examinations Standards," November 5, 2013	X	X
50		AFI 48-123, "Medical Examinations Standards," October 23, 2014	X	X
51	US00001064-US00001069	Request for ETP dated Nov. 8, 2015	X	
52	US00001057-US00001058	Army Staffing Form for Request for ETP	X	
53	US00001050-US00001052	DCARNG Officer Strength Manager Email dated Feb. 9, 2016	X	
54	US00001137	OTSG Medical Opinion dated Jan. 12, 2016	X	

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
55	US00003158	NGB Recommendation dated Feb. 29, 2016	X	
56	US00003142	DCARNG Med. Attach. Recommendation dated June 9, 2017	X	
57	US00003219	NGBCS Memo re Waiver Request dated Dec. 30, 2014	X	
58	US00001063	DMPM Memo denying Request	X	
59	US00001145-1147	Letter to SA dated Aug. 25, 2016	X	
60	US00001080	Letter dated Sept. 28, 2016	X	
61	US00001123-1124	Army Staffing Form for Letter to SA	X	
62	US00001129	Delegation of Authority dated Jun. 27, 2016	X	
63	US00001132-1133	Information Paper dated July 11, 2016	X	
64	US00000931-943	JAG Application	X	
65	US00000944-945	Undergraduate Transcript	X	
66	US00000946-947	MBA Transcript	X	
67	US00000948	Law School Transcript	X	
68	US00000949-950	Harrison CV	X	
69	US00000951	DC Court of Appeals Admission	X	
70	US00000952-970	NCO Evaluation Report	X	
71	US00000971-974	Release from Active Duty	X	
72	US00000975-976	Letter of Recommendation	X	
73	US00000977-978	Letter of Recommendation	X	
74	US00000979-980	Letter of Recommendation	X	
75	US00000981-989	Writing Sample from JAG Application	X	
76	US00002101-02	Information Paper dated September 2015	X	X
77		AMHHR File - State of Legal Residence (2010-06-06)	X	
78	US00000258	AMHHR File - State Award Order (2012-11-01)	X	

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
79	US00000304-US00000305	AMHHR File - NCO Evaluation Report (2013-07-27)	X	
80	US00000032-US00000066	AMHHR File - Enlistment Contract Armed Forces of the US (2000-08-17)	X	
81	US000000120	AMHHR File - Birth Certificate-Adoption Record-Proof of Birth (Soldier) (1977-03-17)	X	
82	US000000156	AMHHR File - Promotion or Reduction Orders (2008-03-05)	X	
83	US000000216-US000000218	AMHHR File - Army National Guard Annual Statement (2010-09-01)	X	
84	US000000259	AMHHR File - State Award order (2012-11-01)	X	
85	US000000306-US000000307	AMHHR File - NCO Evaluation Report (2012-11-30)	X	
86	US000000067	AMHHR File - Veteran's Education Assistance Act of 1984 (GI Bill) (2000-09-19)	X	
87	US000000121	AMHHR File - Record of Awards	X	
88	US000000157-US000000166	AMHHR File - Denial of Review of Army Board of Correction of Military Record (2008-02-01)	X	
89	US000000219	AMHHR File - Servicemen's Group Life Ins. (SGLI) Election (2010-08-20)	X	
90	US000000260-US000000265	AMHHR File - Army National Guard Bonus Addendum (2009-04-01)	X	
91	US000000308-US000000311	AMHHR File - Finance Records Review (2014-12-10)	X	
92	US000000068	AMHHR File - Orders Announcing the Award of Badges, Bars, Tabs, Etc. (2001-04-01)	X	
93	US000000122	AMHHR File - Record of Awards	X	
94	US000000167-US000000168	AMHHR File - Assignment or Transfer Order - Army National Guard (2008-04-25)	X	
95	US000000220-US000000221	AMHHR File - Record of Emergency Data (2010-08-20)	X	
96	US000000266	AMHHR File - Assignment or Transfer Order - Army National Guard (2013-01-09)	X	
97	US000000312-US000000317	AMHHR File - Personnel Records Review (2014-12-10)	X	

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
98	US00000069-US00000081	AMHHR File - Certificate or Release or Discharge From Active Duty (2003-07-18)	X	
99	US00000123	AMHHR File - Record of Awards	X	
100	US00000169-US00000172	AMHHR File - Army National Guard Retirement Points Statement Supplemental Detailed Report (2009-08-16)	X	
101	US00000222-US00000224	AMHHR File - Mobilization Order Amendment (2010-12-15)	X	
102	US00000267	AMHHR File - Assignment or Transfer Order - Army National Guard (2013-01-09)	X	
103	US00000318-US00000319	AMHHR File - NCO Evaluation Report (2014-07-27)	X	
104	US00000124	AMHHR File - Record of Awards	X	
105	US00000173-US00000179	AMHHR File - Army National Guard Annual Statement (2008-08-16)	X	
106	US00000225	AMHHR File - Servicemen's Group Life Insurance (SGLI) Election (2011-01-28)	X	
107	US00000268	AMHHR File - Record of Awards	X	
108	US00000320	AMHHR File - Assignment or Transfer Order - Army National Guard (2014-03-20)	X	
109	US00000125-US00000126	AMHHR File - Record of Disenrollment From Officer Candidate - Type Training (2005-12-15)	X	
110	US00000180	AMHHR File - Assignment or Transfer Order - Army National Guard (2008-09-17)	X	
111	US00000226-US00000227	AMHHR File - Record of Emergency Data (2011-01-28)	X	
112	US00000269	AMHHR File - Record of Awards	X	
113	US00000321-US00000322	AMHHR File - Transcript of Credit For College-University-Trade-Business Schools (2013-05-06)	X	
114	US00000082	AMHHR File - Promotion or Reduction Orders - Amendments (2004-08-13)	X	
115	US00000127	AMHHR File - Promotion or Reduction Orders (2005-12-15)	X	
116	US00000181	AMHHR File - Recommendation for Award (2008-07-11)	X	
117	US00000228	AMHHR File - Mobilization Order Amendment (2010-12-15)	X	

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
118	US00000270	AMHHR File - State Award Order (2012-11-02)	X	
119	US00000323	AMHHR File - Army Physical Fitness Records (2014-12-06)	X	
120	US00000083	AMHHR File - Promotion or Reduction Orders - Amendments (2004-08-13)	X	
121	US00000128- US00000129	AMHHR File - Transcript of Credit for College-University-Trade-Business Schools (2006-05-25)	X	
122	US00000182	AMHHR File - Orders Announcing the Award of Badges, Bars, Tabs, Etc. (2008-07-12)	X	
123	US00000229- US00000231	AMHHR File - Mobilization Order Amendment (2011-05-19)	X	
124	US00000271	AMHHR File - Course Completion Certificate Less Than 40 Hours (2013-03-03)	X	
125	US00000324	AMHHR File - Oath of Extension of Enlistment or Reenlistment (2015-04-25)	X	
126	US00000084- US00000087	AMHHR File - SMP-ARNG (2004-08-12)	X	
127	US00000130- US00000131	AMHHR File - Recommendation for Award (2003-08-15)	X	
128	US00000183- US00000184	AMHHR File - Recommendation for Award (2008-07-11)	X	
129	US00000232- US00000233	AMHHR File - Record of Emergency Data (2011-06-01)	X	
130	US00000272- US00000273	AMHHR File - Servicemen's Group Life Insurance (SGLI) Election (2013-04-06)	X	
131	US00000325	AMHHR File - Proof of Weapons Qualification (2015-10-18)	X	
132	US00000088- US00000092	AMHHR File - Army Senior Reserve Officers' Training Corps ROTC Student Contract (2003-08-18)	X	
133	US00000132	AMHHR File - Docs-Cert That Awd Badges (2003-07-18)	X	
134	US00000185- US00000186	AMHHR File - NCO Evaluation Report (2008-09-11)	X	

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
135	US00000234-US00000235	AMHHR File - Servicemen's Group Life Insurance (SGLI) Election (2011-06-01)	X	
136	US00000274-US00000275	AMHHR File - Record of Emergency Data (2013-04-06)	X	
137	US00000326-US00000331	AMHHR File - Finance Records Review (2016-03-20)	X	
138	US00000093	AMHHR File - Enlistment Contract Armed Forces of the US (2003-07-23)	X	
139	US00000133	AMHHR File - Docs-Cert That Award Badges, Awards, Svc Mdls, Tabs or Non-Army Awds No Orders Published (2002-02-12)	X	
140	US00000187-US00000191	AMHHR File - Oath of Extension of Enlistment or Reenlistment (2009-04-01)	X	
141	US00000236-US00000238	AMHHR File - Promotion or Reduction Orders (2011-08-17)	X	
142	US00000276-US00000279	AMHHR File - Divorce or Annulment Decree (2010-09-16)	X	
143	US00000332-US00000337	AMHHR File - Personnel Records Review (2016-03-20)	X	
144	US00000094	AMHHR File - Personnel Action - Application-Request (2004-01-29)	X	
145	US00000134-US00000135	AMHHR File - Recommendation for Award (2002-05-28)	X	
146	US00000192	AMHHR File - Oath of Extension of Enlistment or Reenlistment (2009-04-01)	X	
147	US00000239	AMHHR File - Promotion or Reduction Orders (2011-08-22)	X	
148	US00000280	AMHHR File - Auth to Start, Stop, Change BAQ and or VHA (2013-04-06)	X	
149	US00000338	AMHHR File - Oath of Extension of Enlistment or Reenlistment (2016-04-17)	X	
150	US00000095	AMHHR File - Transfer Among Army Reserve Components, Control Groups or Units (USAR, ARNG) (2003-07-23)	X	
151	US00000136	AMHHR File - Mobilization Order Amendment (2006-03-10)	X	
152	US00000193	AMHHR File - Assignment or Transfer Order - Army National Guard (2009-04-14)	X	

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
153	US00000240- US00000242	AMHHR File - Army National Guard Annual Statement (2011-09-07)	X	
154	US00000281	AMHHR File - State Award Order (2013-05-20)	X	
155	US00000339- US00000340	AMHHR File - Record of Awards	X	
156	US00000096- US00000098	AMHHR File - Statement of Understanding, The Selected Reserve Montgomery GI Bill (10 USC Chapter 1606)(2005-06-09)	X	
157	US00000137- US00000138	AMHHR File - Amend Active Duty Orders for AT, ADT, IADT, AGR or ADSW (2007-08-15)	X	
158	US00000194- US00000195	AMHHR File - Army National Guard Retirement Points Statement Supplemental Detailed Report (2009-09-01)(Duplicate)	X	
159	US00000243- US00000244	AMHHR File - NCO Evaluation Report (2010-11-30)	X	
160	US00000282- US00000283	AMHHR File - Miscellaneous Mobilization Documents-Not Restricted (2013-07-16)	X	
161	US00000341	AMHHR File - Certificate of Marriage (2016-06-16)	X	
162	US00000099	AMHHR File - Personnel Action - Application Request (2005-06-09)	X	
163	US00000139- US00000144	AMHHR File - Non-Resident Subcourse Completion Notification (2007-03-22)	X	
164	US00000196- US00000200	AMHHR File - Army National Guard Annual Statement (2009-09-01)	X	
165	US00000245- US00000246	AMHHR File - NCO Evaluation Report (2011-11-30)	X	
166	US00000284- US00000285	AMHHR File - Record of Emergency Data (2013-07-22)	X	
167	US00000342	AMHHR File - Assignment or Transfer Order - Army National Guard (2016-06-21)	X	
168	US00000100- US00000102	AMHHR File - Record of Military Processing - Armed Forces of the United States (2003-07-23)	X	
169	US00000145	AMHHR File - Certificate of Release or Discharge from Active Duty (2007-06-28)	X	

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
170	US00000201	AMHHR File - Personnel Qualification Record (2010-03-06)	X	
171	US00000247	AMHHR File - Mobilization Order Amendment (2011-05-19)	X	
172	US00000286- US00000287	AMHHR File - Servicemember's Group Life Insurance (SGLI) Election (2013-07-22)	X	
173	US00000343	AMHHR File - Oath of Extension of Enlistment or Reenlistment (2017-02-08)	X	
174	US00000103- US00000104	AMHHR File - Enlistment Contract Armed Forces of the US (2003-07-23)	X	
175	US00000146	AMHHR File - Certificate of Release or Discharge from Active Duty (2007-07-16)	X	
176	US00000203- US00000205	AMHHR File - Retirement Credits Record (2010-03-09)	X	
177	US00000248- US00000249	AMHHR File - Certificate of Release or Discharge from Active Duty (2012-05-13)	X	
178		AMHHR File - Miscellaneous Mobilization Documents - Not Restricted (2013-07-22)	X	
179	US00000344	AMHHR File - Docs-Cert That AWD Badges, Awards, Svc Mdls, Tabs, or Non-Army Awds No Orders Published (2015-07-04)	X	
180	US00000106- US00000108	AMHHR File - Statement of Understanding - ARNG Montgomery GI Bill Kicker Program (2003-07-23)	X	
181	US00000147	AMHHR File - Amend Active Duty Orders for AT, ADT, IADT, AGR, or ADSW (2006-03-03)	X	
182	US00000206- US00000207	AMHHR File - NCO Evaluation Report (2009-09-30)	X	
183	US00000250	AMHHR File - Assignment or Transfer Order - Army National Guard (2012-05-14)	X	
184	US00000289- US00000292	AMHHR File - Army National Guard Retirement Points History Statement (2013-07-22)	X	
185	US00000345- US00000346	AMHHR File - Enlisted Evaluation Report (SGT) (2016-06-28)	X	
186	US00000109- US00000112	AMHHR File - Enlistment -Reenlistment Agreement Army National Guard (2003-07-23)	X	

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
187	US00000148	AMHHR File - Amendment of Attachment Order From Attachment Order (2006-03-03)	X	
188	US00000208-US00000209	AMHHR File - Personnel Qualification Record (2010-04-07)	X	
189	US00000251	AMHHR File - Certificate of Release or Discharge from Active Duty (2012-05-13)	X	
190	US00000293	AMHHR File - Certificate of Achievement-Appreciation-Commendation (2013-06-18)	X	
191	US00000347-US00000348	AMHHR File - Evaluation Report (2015-07-27)	X	
192	US00000113	AMHHR File - Police Record Check - 369DD (Part of 4DD) (2003-07-23)	X	
193	US00000149	AMHHR File - Assignment or Transfer Order - Army National Guard (2007-06-29)	X	
194	US00000210	AMHHR File - Assignment or Transfer Order - Army National Guard (2010-04-21)	X	
195	US00000252	AMHHR File - Temporary Change of Station Contingency-Mobilization Orders (2011-06-29)	X	
196	US00000294	AMHHR File - Assignment or Transfer Order - Army National Guard (2013-10-15)	X	
197	US00000349-US00000350	AMHHR File - Record of Emergency Data (2016-05-10)	X	
198	US000001 14	AMHHR File - Police Record Check - 369DD (Part of 4DD) (2003-07-23)	X	
199	US00000150-US00000151	AMHHR File - Orders Announcing the Award of Badges, Bars, Tabs, Etc. (2007-04-30)	X	
200	US00000211	AMHHR File - Service School Academic Evaluation Report (2010-05-29)	X	
201	US00000253-US00000254	AMHHR File - Temporary Change of Station Contingency-Mobilization Orders (2011-06-29)	X	
202	US00000295-US00000296	AMHHR File - Recommendation for Award (2013-05-21)	X	
203	US00000351-US00000352	AMHHR File - Servicemen's Group Life Insurance (SGLI) Election (2016-05-10)	X	
204	US00000115	AMHHR File - DMDC-RDMS Data and Line Scores (2000-09-12)	X	

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
205	US00000152	AMHHR File - Memorandum of Award (2007-05-01)	X	
206	US00000212	AMHHR File - Miscellaneous Mobilization Documents - Not Restricted (2010-06-06)	X	
207	US00000255	AMHHR File - Amendment - Temporary Change of Station Contingency-Mobilization Orders (2011-10-22)	X	
208	US00000297	AMHHR File - State Award Certificate (2013-05-21)	X	
209	US00000353-US00000354	AMHHR File - Enlisted Evaluation Report (SGT) (2017-10-14)	X	
210	US00000116-US00000117	AMHHR File - Transcript of Credit for College-University-Trade-Business Schools (2000-08-21)	X	
211	US00000153	AMHHR File - Orders Announcing the Award of Badges, Bars, Tabs, Etcetera (2007-04-30)	X	
212	US00000213	AMHHR File - Employment Income Tax Withholding W4 (2010-06-06)	X	
213	US00000256	AMHHR File - Promotion or Reduction Orders (2012-08-14)	X	
214	US00000298	AMHHR File - Transfer Among Army Reserve Components, Control Groups or Units (USAR, ARNG) (2014-03-20)	X	
215	US00000118	AMHHR File - Copy of Driver's License (1977-03-17)	X	
216	US00000154	AMHHR File - Assignment or Transfer Order - Army National Guard (2008-03-04)	X	
217	US00000214	AMHHR File - Direct Deposit (2010-06-10)	X	
218	US00000257	AMHHR File - Assignment or Transfer Order - Army National Guard (2012-08-21)	X	
219	US00000299-US00000303	AMHHR File - Army National Guard Annual Statement (2014-06-06)	X	
220	US00000030-US00000031	AMHHR File - Transcript of Credit for College-University-Trade-Business Schools (2000-08-21)	X	
221	US00000119	AMHHR File - Verification or Correction (2000-08-09)	X	

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
222	US00000155	AMHHR File - HQDA Memorandum for Record (2008-02-26)	X	
223		Army Directive 2018-22	X	
224		Memo from ASA dated Nov. 9, 2018	X	
225	A-00101-A-00141	Air Force Instruction 10-203, "Duty Limiting Conditions," November 20, 2014		X
226	A-00142-A-00158	Air Force Instruction 36-2603, "Air Force Board for Correction of Military Records (AFBCMR)," September 18, 2017		X
227	A-00159-A-00293	Air Force Instruction 36-2606, "Reenlistment and Extension of Enlistment in the United States Air Force," July 27, 2017		X
228	A-00338	AFM&R Memo re "Appropriate Evaluation of Fitness for Continued Service for Airmen with Asymptomatic Human Immunodeficiency Virus (HIV)," June 6, 2018		X
229	A-00339-A-00340	AFM&R Memo re "Airmen with Asymptomatic Human Immunodeficiency Virus (HIV) Disposition," September 26, 2018		X
230	A-00341	USAF/A1P Memo re "Retention of Airmen with Asymptomatic HIV," October 11, 2017		X
231	A-00342-A-00363	CENTCOM MOD 13 to CENTCOM Individual Protection and Individual-Unit Deployment Policy, March 2017	X	X
232	A-00429-A-00433	Scott P, Hakre S, et al., Short Communication Investigation of Incident HIV Infections Among U.S. Army Soldiers Deployed to Afghanistan and Iraq, 2001-2007. AIDS Research and Human Retroviruses. 2012;28(10):1308-1312.	X	X
233	A-00434-A-00439	Blaylock J, Hakre S, et al., HIV Preexposure Prophylaxis in the U.S. Military Services - 2014-2016. CDC Morbidity and Mortality Weekly Report. 2018;67(2):569-574.	X	X

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
234	A-00440-A-00449	Chun T, Justement J, et al., Rebound of plasma viremia following cessation of antiretroviral therapy despite profoundly low levels of HIV reservoir: implications for eradication. AIDS. 2010;24(18):2803-2808.	X	X
235	A-00450-A-00456	Hakre S, Manak M, et al., Transfusion-transmitted human T-lymphotropic virus Type I infection in a United States military emergency whole blood transfusion recipient in Afghanistan, 2010. Transfusion. 2013;53:2176-2182.	X	X
236	A-00460-A-00462	SAF/MRBP Memo re Discharge Recommendation--Roe		X
237	A-00463	AFPC/DPFDD Memo re Review of PEB Proceedings--Roe		X
238	A-00464-A-00470	Office of Airmen's Counsel Memo re Roe FPEB Appeal, with attachments		X
239	A-00471-A-00472	Roe Memo re FPEB Appeal		X
240	A-00473-A-00474	Letter of Reference, Roe		X
241	A-00475-A-00476	Letter of Reference, Roe		X
242	A-00477-A-00478	Letter of Reference, Roe		X
243	A-00479	Letter from Doctor, Roe		X
244	A-00480-A-00481	FPEB Findings and Recommended Disposition, Roe		X
245	A-00482-A-00548	FPEB Contention Slip, with Exhibits		X
246	A-00549-A-00550	IPEB Findings and Recommended Disposition, Roe		X
247	A-00551-A-00552	Personal Data, Roe		X
248	A-00553	Checklist for MEB, Roe		X
249	A-00554-A-00555	Medical Board Report, Roe		X
250	A-00556-A-00557	Commander's Impact Statement for MEB, Roe		X
251	A-00558	Impartial Review Election, Roe		X

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
252	A-00559-A-00561	Letter of Exception, Roe		X
253	A-00562-A-00566	Character Statements, Roe		X
254	A-00567	DES Counseling Acknowledgment Sheet, Roe		X
255	A-00568	Duty Limiting Condition Report, Roe		X
256	A-00569-A-00575	Narrative Summary, Roe		X
257	A-00576-A-00625	Veterans Affairs Compensation and Pension Physical, Roe		X
258	A-00626-A-00633	Medical Records, Roe		X
259	A-00634-A-00658	Entrance Medical Exam, Roe		X
260	A-00659-A-00663	Veterans Affairs DES Proposed Rating, Roe		X
261	A-00664-A-00665	Veterans Affairs DES Proposed Rating Coding Sheet, Roe		X
262	A-00666-A-00667	Request and Authorization for Separation, Roe		X
263	A-00668-A-00739	Active Duty Deployment TDY Rate for FY 2018		X
264	A-00740-A-00744	Active Duty Deployment Statistics for FY 2015-2017		X
265	A-00747-A-00749	SAF/MRBP Memo re Discharge Recommendation, Voe		X
266	A-00750-A-00751	Voe Memo re FPEB Appeal		X
267	A-00753	FPEB Contention Slip, Voe		X
268	A-00754	AFPC/DPFDD Memo re Review of PEB Proceedings, Voe		X
269	A-00755-A-00756	FPEB Findings and Recommended Disposition, Voe		X
270	A-00757-A-00758	IPEB Findings and Recommended Disposition, Voe		X
271	A-00759	Personal Data, Voe		X
272	A-00760	Checklist for MEB, Voe		X
273	A-00761-A-00762	Medical Board Report, Voe		X
274	A-00763-A-00764	Commander's Impact Statement for MEB, Voe		X

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
275	A-00765	Impartial Review Election, Voe		X
276	A-00766	DES Counseling Acknowledgment Sheet, Voe		X
277	A-00767	Voe MEMO re Request for Retention Beyond ETS		X
278	A-00768	Duty Limiting Condition Report, Voe		X
279	A-00769-A-00789	iRILO-MEB Narrative Summary		X
280	A-00790-A-00908	Veterans Affairs Compensation and Pension Physical, Voe		X
281	A-00909-A-00920	Entrance Medical Exam, Voe		X
282	A-00921-A-00930	Veterans Affairs DES Proposed Rating, Voe		X
283	A-00931-A-00933	Veterans Affairs DES Coding Sheet, Voe		X
284	A-00934	Action on PEB Findings and Recommended Disposition, Voe		X
285	A-00935-A-00941	Veterans Affairs Benefits Letter, Voe		X
286	A-00942-A-00943	Request and Authorization for Separation, Voe		X
287	A-00944-A-01015	Active Duty Deployment TDY Rate for Fiscal Year 2018		X
288	A-01016-A-01020	Active Duty Deployment Statistics for FY 2015-2017		X
289	A-01021-A-01022	Certification of Administrative Record, Roe		X
290	A-01023-A-01024	Certification of Administrative Record, Voe		X
291	A-01025-A-01068	Joint Theater Trauma System Clinical Practice Guideline, Fresh Whole Blood (FWB) Transfusion	X	X
292	A-01069	Supplemental Administrative Record Certification		X
293	A-01070	Voting Sheet		X
294	A-01071	Supplemental Administrative Record Certification		X
295	A-01072-A-01074	Voting Sheets		X
296		Air Force Policy Directive 44-1, "Medical Operations," June 9, 2016		X

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
297		Aberg J, Gallant J, et al., "Primary Care Guidelines for the Management of Persons Infected with HIV: 2013 Update by the HIV Medicine Association of the Infectious Diseases Society of America." Clinical Infectious Dis. 2014;58(1):e1-34.	X	X
298		Air Force Instruction 36-3212, "Physical Evaluation for Retention, Retirement, and Separation," February 2, 2012 (incorporating through Change 2, November 27, 2009).		X
299		Air Force Guidance Memorandum to AFI 41-210 and AFI 41-210, "TRICARE Operations and Patient Administration Functions," September 27, 2018		X
300		HHS, Guidelines for the Use of Antiretroviral Agents in Adults and Adolescents Living with HIV.	X	X
301		CDC, Integrated Prevention Services for HIV Infection, Viral Hepatitis, Sexually Transmitted Diseases, and Tuberculosis for Persons Who Use Drugs Illicitly: Summary Guidance from CDC and HHS	X	X
302		CDC, Evidence of HIV Treatment and Viral Suppression in Preventing the Sexual Transmission of HIV	X	X
303		Marks G, Patel U, et al., "Single Viral Load Measurements Overestimate Stable Viral Suppression Among HIV Patients in Care: Clinical and Public Health Implications." 73 J. of Acquired Immune Deficiency Syndromes 205 (Oct. 2016)	X	X
304	US00031224-US00031233	CENTCOM, MOD 13 Tab A, Amplification of the Minimal Standards of Fitness for Deployment to the CENTCOM AOR	X	X
305		CENTCOM, Mod 13 Tab B, Amplification of Requirements for Permanent Change of Station Personnel in the CENTCOM AOR	X	X
306		CENTCOM, MOD 13 Tab C, CENTCOM Medical Waiver Request	X	X

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
307	USX00000001-7	Routine Screening for Antibodies to Human Immunodeficiency Virus, Civilian Applicants for U.S. Military Service And U.S. Armed Forces, Active and Reserve Components, January 2013-June 2018, MSMR 25(9):2-8 (Sept. 2018)	X	X
308	USX00000008-11	Siedner & Triant, "Undetectable = Untransmittable and Your Health," J. Inf. Dis. 2019:219 (2018)	X	X
309	USX00000012-43	Active Duty ART Outcomes v2.0, updated March 31, 2019	X	X
310	USX00000044-91	Kuhar et al., "US PHS Guidelines for the Management of Occupational Exposures to HIV"	X	X
311	USX00000092-93	CDC, "Interim Statement Regarding Potential Fetal Harm from Exposure to Dolutegravir — Implications for HIV Post-exposure Prophylaxis (PEP)"	X	X
312	USX00000094-184	CDC, "Updated Guidelines for Antiretroviral Postexposure Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccupational Exposure to HIV United States, 2016"	X	X
313	USX00000185-194	Brett-Major et al., "Costs and Consequences: Hepatitis C Seroprevalence in the Military and Its Impact on Potential Screening Strategies," Hepatology 63(2):398-407 (2016)	X	X
314	USX00000195-212	Patel et al., "Estimating per-act HIV Transmission risk: a systematic review," AIDS. 2014 June 19; 28(10): 1509-1519.	X	X
315	USX00000218-244	CDC, "Recommendations for Postexposure Interventions to Prevent Infection with Hepatitis B Virus, Hepatitis C Virus, or Human Immunodeficiency Virus, and Tetanus in Persons Wounded During Bombings and Other Mass-Casualty Events --- United States, 2008" MMWR, 57(RR06):1-19 (Aug. 1, 2018)	X	X

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
316	USX00000245-251	Chandler et al., "The US Military Experience With Fresh Whole Blood During the Conflicts in Iraq and Afghanistan," Seminars in Cardiothoracic and Vascular Anesthesia 16(3) 153-159 (2012)	X	X
317	USX00000252-263	Abbott RealTime HIV-1 Instructions	X	X
318	USX00000264-305	COBAS AmpliPrep/COBAS TaqMan HIV-1 Test, version 2.0 Instructions	X	X
319	USX00000306-343	WRAIR, Specimen Submission Guidelines (June 2017)	X	X
320		AMPLICOR HIV-1 Monitor Test Instructions	X	X
321	Hendrix Ex. 14	Notice of Discontinuation of AMPLICOR HIV-1 Monitor Test	X	X
322	USX00000699-740	FORSCOM Presentation dated May 1, 2019	X	X
323	USX00000488-494	Okulicz et al., "Review of the U.S. Military's Human Immunodeficiency Virus Program," MSMR 24(9):2-7 (Sept. 2017)	X	X
324	USX00000495-500	Pacha et al., "Centralized HIV Program Oversight: An Investigation of a Case Series of New HIV Infections among US Army Soldiers, 2012 to 2013," Medicine 94(46):1-6 (2015)	X	X
325		CRS, "Acquired Immune Deficiency Syndrome and Military Manpower Policy," February 12, 1988	X	X
326		CRS, "HIV-1/AIDS and Military Manpower Policy," November 28, 2000	X	X
327		Thomas A, Grillo M, et al., "Military HIV Policy Assessment in Sub-Saharan Africa." Military Medicine 2014;179(7):773-777	X	X
328	US00003144-3148	Letter to Secretary of Defense dated April 22, 2017	X	
329	US00003149-3150	Letter to Army G-1 dated April 22, 2017	X	
330	Harrison 26-3	Letter to J. Wright dated Feb. 23, 2015	X	
331	Taylor Ex. 5	OraQuick Advance Rapid HIV-1/2 Antibody Test Instructions	X	X
332		AFGM 2019-36-01 dated Feb. 19, 2019		X

Exhibit No.	Bates or Document No.	Description	Harrison	Roe
333		ASBP Medical Conditions List, dated Feb. 2019	X	X
334	NH-000020	Letter from S. Barna, dated July 26, 2016	X	
335	Hendrix Ex. 9	Eisinger, et. al, "HIV Viral Load and Transmissibility of HIV Infection: Undetectable Equals Untransmittable," February 15, 2019	X	X
336	Hendrix Ex. 8	Alcorn, Keith, "Two cases of HIV transmission through breastfeeding in mothers with undetectable viral load reported," November 20, 2018	X	X
337		Chun T, Moir S, et al, "HIV reservoirs as obstacles and opportunities for an HIV cure," June 2015	X	X
338		SMART Study Group, "CD4+ Count-Guided Interruption of Antiretroviral Treatment," November 30, 2006 NEJM	X	X
339		CDC, "HIV Basics: HIV Transmission"	X	X
340	US00001934	Interim letter from ARD dated May 1, 2017	X	
341	US00001055	Enlisted Record Brief	X	
342	US00002057	Army Staffing Form for Request for Waiver	X	
343	US00002975	Letter from S. Saunders dated May 4, 2017	X	

DATE: June 5, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I filed the foregoing using the Court's CM/ECF system, which will send a notification of electronic filing (NEF) to the following counsel of record:

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